

A User's Guide to Ending the Trump Presidency

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Review of David Priess, *“How to Get Rid of a President: History's Guide to Removing Unpopular, Unable, or Unfit Chief Executives”* (PublicAffairs, 2018)

Editor's note: Although Lawfare does not ordinarily review books by Lawfare editors and staff, this book review was commissioned and written prior to the public announcement in November that Priess had been hired as chief operating officer of the Lawfare Institute, the organization which publishes Lawfare.

The first is the standard narrative, according to which Russia interfered in the 2016 election with the goal of damaging our democratic processes and discrediting the likely next president, Hillary Clinton. At some point along the way, as the campaign progressed and their meddling seemed to be having outsized effects, the Russian effort to discredit Clinton metamorphosed into an effort to help elect Donald Trump. Trump and his campaign may have colluded with this Kremlin effort, and Trump's peculiar relationship with Russian leader Vladimir Putin may be tied to the supposed collusion. A major focus of the investigation led by the special counsel Robert Mueller is to determine whether such collusion occurred. To those Americans like me who believe that Donald Trump is grossly unfit to serve as president, the question we've been confronting since January 2017 is how best to remove him from office. The answer, of course, lies in our history. Trump, after all,

is our 45th president. Forty-four previous presidents have already come and gone. How and why did they leave office? And do any of their modes of departure bear on our current situation?

Answers to that question can be found in a timely new book, *“How to Get Rid of a President: History's Guide to Removing Unpopular, Unable, or Unfit Chief Executives.”* Its author, David Priess, is a student of presidential history with a background in espionage, having served in the CIA under presidents Bill Clinton and George W. Bush, and written a previous valuable work combining both interests that appeared in 2016, *“The President's Book of Secrets: The Untold Story of Intelligence Briefings to America's Presidents.”*

Priess opens his guide with a survey of the constitutional mechanisms devised by the Constitution's framers to keep America's president from being too weak to govern effectively or, alternatively, so powerful as to evolve into a tyrant. To that end, they included in their system of checks and balances a limit on the length of each presidential term. This was not universally favored. Rufus King of Massachusetts, for example, bruited the idea of unlimited presidential service, subject only to the

legislature's continued assessment of "good behavior." Gouverneur Morris of Pennsylvania, for his part, opposed the proposal to limit the president to a single seven-year term on the grounds that it would "destroy the great motive to good behavior, the hope of being rewarded by a reappointment."

In the end, of course, the framers settled on a four-year term that voters could renew indefinitely. It was only in 1947, following Franklin Delano Roosevelt's four-term presidency, that the 22nd Amendment set its present two-term limit. That limit, of course, will do us little good in confronting Donald Trump. If this incendiary and divisive personality remains in office until 2024, untold damage to the country and the culture will ensue. What other ways are available to dispatch him from the White House?

Priess organizes his survey according to categories that run the gamut of possibilities from the legal to the political, some more obvious than others. Apart from being ousted by voters, they include presidents getting "rejected by their own parties"; "removed in place by opponents or subordinates"; "displaced by death"; "taken out by force"; "declared unable to serve"; and "impeached and removed."

The first of these, getting rejected by one's own party, was the fate of such 19th-century forgettables as John Tyler, Millard Fillmore, Franklin Pierce and Chester Arthur, and in our modern era, of course, Lyndon Johnson. Will the Republican Party deny Trump a second term? Obviously, a great deal can happen in a short time: an economic downturn or a devastating report from the Mueller investigation might radically change the current calculus. But with Trump's approval rating among party members currently hovering around 90 percent, it seems unlikely as of now.

As for getting "removed in place," whether by political opponents, by other branches of

government, or even by a president's own subordinates—maybe call this "functional removal," because, after all, it's not "actual" removal from office through formal legal processes—Priess has in mind for this category a whole slew of presidents who have been, he says, effectively neutered by Congress or, in some instances, their own insubordinate lower officers in the executive branch. That this in any meaningful way counts as "getting rid of a president," as Priess's title promises, however, is a stretch too far.

Even so, Priess's account of presidents being checked and stymied while in office is both historically informative and relevant to the current office-holder. Playing along with the author's conceit, it's clear (as we know from accounts like that of the senior official writing as Anonymous in the New York Times and Bob Woodward's "Fear") that some of Trump's subordinates have sought to rein him in, including by such unorthodox means as surreptitiously removing papers from his desk. But it's also clear as his presidency unfolds, that Trump has not been brought under meaningful supervision by the so-called "adults" in the White House, whether by "orthodox" or "unorthodox" means. Most of them, such as H.R. McMaster and Gary Cohn, have in any case already departed and been replaced by Trumpian ideologues and reliable yes-men. With outrage following upon embarrassment following upon fresh outrage—as I write the President of the United States has addressed the incoming chairman of the House intelligence committee Rep. Adam Schiff with the appellation "little Adam Schitt"—whatever guard rails some have fancied would restrain Donald Trump are proving to be imaginary.

Being "displaced by death" or "taken out by force" has been the fate of eight presidents four by illness and four by assassination. Priess walks us through these tragic cases. Fortunately, they are exceptional. Despite some recent spectacular lapses, the Secret Service on the whole manages these days to

safeguard its principal protectee pretty well. And while Donald Trump may eat an unhealthy diet and be on the edge of obesity, to all appearances he is quite vigorous. Life-expectancy for the average man his age is in the eighties.

That leaves the final two possibilities—being declared unable to serve and, lastly, impeachment. Woodrow Wilson is the archetypical case of the former. “The President is a very sick man...absolute rest is essential for some time,” noted his doctor’s bulletin one fine morning in 1919. In fact, Wilson suffered from a stroke that was kept hidden from the public for an astonishing 519 days. Priess examines the deficiencies of the Constitution’s original clause in Article 2, section 1, for dealing with presidential “inability to discharge the Powers and Duties of the said Office.” Repeated encounters with presidential illness, including Dwight Eisenhower’s heart attacks, were part of what prompted the ratification of the 25th Amendment in 1967, designed to set up procedures for removing an incapacitated president.

But how would the 25th Amendment’s procedures be applied to a president with borderline mental illness of the kind that some say Trump suffers from? Richard Nixon’s alcohol consumption and depression were never severe enough even to provoke a discussion of the possibility. That is not the case now, and discussion of the 25th Amendment has not been confined to pundits. If we credit the senior official writing as “Anonymous” in the New York Times, there were “early whispers within the cabinet of invoking the 25th Amendment, which would start a complex process for removing the president. But no one wanted to precipitate a constitutional crisis.” Deputy Attorney General Rod Rosenstein is among those reported to have been engaged in such discussions. In considering how such a process might unfold (not in reference to Trump but in the abstract), Priess sees it leading to nowhere

but dangerous chaos.

As for impeachment, Priess walks readers through the three cases of impeachment proceedings in American history: Andrew Johnson, Bill Clinton and Richard Nixon. He concludes, reasonably, that “a high bar should stand in the way of removing a merely unpopular president by nonelectoral means.” Trump, however, he sees as an ambiguous case—not simply unpopular, and not clearly impeachable for high Crimes and Misdemeanors. He sees Trump instead as someone who “manifests an indifference toward, or inability to discern, the difference between truth and untruth” and is a “wrecking ball” president.

That peculiar disqualification is not covered by any constitutional contingency. In closing his book, Priess rather vaguely suggests that, given that the framers’ solution to the problem of removal is neither “flawless nor eternal,” some sort of constitutional amendment might be required to deal with the set of problems confronting us today. But of course, for the near term, fundamental change of that sort is not in the cards. One puts down Priess’s breezy yet analytical history with the same sense with which one started. When it comes to getting rid of this president, history may be a guide, but we are nevertheless deep in uncharted waters, facing the potential shipwreck of our constitutional democracy.

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